

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NICHOLAS FREDERICKSON,

Plaintiff,

v.

HIGH DESERT STATE PRISON et al.,

Defendants.

2:16-cv-00451-MMD-NJK

ORDER

I. DISCUSSION

On August 30, 2016, the Court issued a screening order dismissing Counts I and II with leave to amend and permitting Count III to proceed. (ECF No. 3 at 9). The Court granted Plaintiff 30 days from the date of that order to file an amended complaint curing the deficiencies of Counts I and II. (*Id.*). The Court specifically stated that, if Plaintiff chose not to file an amended complaint, the action would proceed on the First Amendment retaliation claim (Count III) against Defendant Lieutenant Groover. (*Id.* at 10). Plaintiff has not filed an amended complaint. Pursuant to the screening order, this action shall proceed on the First Amendment retaliation claim (Count III) against Defendant Lieutenant Groover.

The Court acknowledges that Plaintiff may not have received the screening order because the post office returned the order as undeliverable. (ECF No. 4). The Court notes that, pursuant to Nevada Local Special Rule 2-2, “[t]he plaintiff must immediately file with the court written notification of any change of address. The notification must include proof of service on each opposing party or the party’s attorney. Failure to comply with this rule may result in dismissal of the action with prejudice.” Nev. Loc. Special R. 2-2. This Court grants Plaintiff until Friday, October 28, 2016 to file his updated address with this Court. If Plaintiff

1 does not update the Court with his current address on or before October 28, 2016, the
2 undersigned will recommend dismissal of this action with prejudice.

3 **II. CONCLUSION**

4 For the foregoing reasons, IT IS ORDERED that, pursuant to the Court's screening
5 order (ECF No. 3), this action shall proceed on the First Amendment retaliation claim (Count
6 III) against Defendant Lieutenant Groover.

7 IT IS FURTHER ORDERED that, given the nature of the claim(s) that the Court has
8 permitted to proceed, this action is **STAYED** for ninety (90) days to allow Plaintiff and
9 Defendant(s) an opportunity to settle their dispute before the \$350.00 filing fee is paid, an
10 answer is filed, or the discovery process begins. During this ninety-day stay period, no other
11 pleadings or papers shall be filed in this case, and the parties shall not engage in any
12 discovery. The Court will refer this case to the Court's Inmate Early Mediation Program, and
13 the Court will enter a subsequent order. Regardless, on or before ninety (90) days from the
14 date this order is entered, the Office of the Attorney General shall file the report form attached
15 to this order regarding the results of the 90-day stay, even if a stipulation for dismissal is
16 entered prior to the end of the 90-day stay. If the parties proceed with this action, the Court
17 will then issue an order setting a date for Defendants to file an answer or other response.
18 Following the filing of an answer, the Court will issue a scheduling order setting discovery and
19 dispositive motion deadlines.

20 IT IS FURTHER ORDERED that "settlement" may or may not include payment of
21 money damages. It also may or may not include an agreement to resolve Plaintiff's issues
22 differently. A compromise agreement is one in which neither party is completely satisfied with
23 the result, but both have given something up and both have obtained something in return.

24 IT IS FURTHER ORDERED that, if the case does not settle, Plaintiff will be required
25 to pay the full \$350.00 filing fee. This fee cannot be waived. If Plaintiff is allowed to proceed
26 *in forma pauperis*, the fee will be paid in installments from his prison trust account. 28 U.S.C.
27 § 1915(b). If Plaintiff is not allowed to proceed *in forma pauperis*, the \$350.00 will be due
28 immediately.

1 IT IS FURTHER ORDERED that, if any party seeks to have this case excluded from the
2 inmate mediation program, that party shall file a "motion to exclude case from mediation" on
3 or before twenty-one (21) days from the date of this order. The responding party shall have
4 seven (7) days to file a response. No reply shall be filed. Thereafter, the Court will issue an
5 order, set the matter for hearing, or both.

6 IT IS FURTHER ORDERED that the Clerk of the Court shall electronically **SERVE** a
7 copy of this order, the original screening order (ECF No. 3) and a copy of Plaintiff's complaint
8 (ECF No. 1-1) on the Office of the Attorney General of the State of Nevada, attention Kat
9 Howe.

10 IT IS FURTHER ORDERED that the Attorney General's Office shall advise the Court
11 within twenty-one (21) days of the date of the entry of this order whether it will enter a limited
12 notice of appearance on behalf of Defendants for the purpose of settlement. No defenses or
13 objections, including lack of service, shall be waived as a result of the filing of the limited notice
14 of appearance.

15 IT IS FURTHER ORDERED that Plaintiff shall file his updated address with the Court
16 **on or before Friday, October 28, 2016.** If Plaintiff fails to timely comply with this order, the
17 undersigned will recommend dismissal of this case with prejudice.

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19 DATED: This 6th day of October, 2016.

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22 NANCY J. KOPPE
23 United States Magistrate Judge
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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 NICHOLAS FREDRICKSON,

11 Plaintiff,

12 v.

13 HIGH DESERT STATE PRISON et al.,

14 Defendants.
15 _____

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REPORT OF ATTORNEY GENERAL
RE: RESULTS OF 90-DAY STAY

16 **NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM. THE**
17 **INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**
18

19 On _____ [*the date of the issuance of the screening order*], the Court
20 issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C. §
21 1915A, and that certain specified claims in this case would proceed. The Court ordered the
22 Office of the Attorney General of the State of Nevada to file a report ninety (90) days after the
23 date of the entry of the Court's screening order to indicate the status of the case at the end
24 of the 90-day stay. By filing this form, the Office of the Attorney General hereby complies.

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REPORT FORM

[Identify which of the following two situations (identified in bold type) describes the case, and follow the instructions corresponding to the proper statement.]

Situation One: Mediated Case: The case was assigned to mediation by a court-appointed mediator during the 90-day stay. [If this statement is accurate, check **ONE** of the six statements below and fill in any additional information as required, then proceed to the signature block.]

_____ A mediation session with a court-appointed mediator was held on _____ [enter date], and as of this date, the parties have reached a settlement (even if paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in the case until a specified date upon which they will file a stipulation of dismissal.)

_____ A mediation session with a court-appointed mediator was held on _____ [enter date], and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ No mediation session with a court-appointed mediator was held during the 90-day stay, but the parties have nevertheless settled the case. (If this box is checked, the parties are on notice that they must SEPARATELY file a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)

_____ No mediation session with a court-appointed mediator was held during the 90-day stay, but one is currently scheduled for _____ [enter date].

_____ No mediation session with a court-appointed mediator was held during the 90-day stay, and as of this date, no date certain has been scheduled for such a session.

_____ None of the above five statements describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

* * * * *

Situation Two: Informal Settlement Discussions Case: The case was NOT assigned to mediation with a court-appointed mediator during the 90-day stay; rather, the parties were encouraged to engage in informal settlement negotiations. [If this statement is accurate, check **ONE** of the four statements below and fill in any additional information as required, then proceed to the signature block.]

_____ The parties engaged in settlement discussions and as of this date, the parties have reached a settlement (even if the paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)

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_____ The parties engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ The parties have not engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ None of the above three statements fully describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

Submitted this _____ day of _____, _____ by:

Attorney Name: _____
Print Signature

Address: _____ Phone: _____

Email: _____